

02-19-08 Court Hearing (official) Vol 1.txt

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel,  
W. A. DREW EDMONDSON, in his  
capacity as ATTORNEY GENERAL  
OF THE STATE OF OKLAHOMA,  
et al .  
  
Plaintiffs,  
  
V.  
  
TYSON FOODS, INC., et al . ,  
  
Defendants.

No. 05-CV-329-GKF-SAJ

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13 REPORTER' S TRANSCRI PT OF PROCEEDI NGS  
14 FEBRUARY 19, 2008  
15 PRELI MI NARY I NJUNCTI ON HEARI NG  
16 VOLUME I

18 BEFORE THE HONORABLE GREGORY K. FRIZZELL, Judge

20 APPEARANCES:

21 For the Plaintiffs: Mr. Drew Edmondson  
22 Attorney General  
23 Mr. Robert Nance  
24 Mr. Daniel Lennington  
25 Ms. Kelly Hunter Burch  
Mr. Trevor Hammons  
Assistant Attorneys General  
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Oklahoma City, Oklahoma 73105

Glen R. Dorrough  
UNITED STATES COURT REPORTER

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5 and springs and wells of the Illinois River Watershed with  
6 biologic pathogens that have created an imminent and  
7 substantial threat to human health.

8 Three years ago, Your Honor, the State of Oklahoma  
9 filed suit against these defendants alleging environmental  
10 damage to the Illinois River watershed due to the excessive  
11 surface application of poultry waste. This waste, consisting  
12 of fecal matter, bedding and water, contains, among other  
13 things, nitrogen and phosphorus and is an effective fertilizer  
14 when properly used. We alleged then and still maintain that  
15 the litter is being applied well in excess of the agronomic  
16 needs of crops and that the resulting runoff from fields has  
17 damaged the waters of the basin, including Lake Tenkiller.

18 Trial of the case-in-chief is scheduled next year.  
19 However, in the course of preparation for that trial, we began  
20 to develop data concerning the effects of this dumping on human  
21 health. We feel that data is compelling and because of the  
22 human health implications, it could not wait until next year.  
23 We, therefore, are seeking this injunction. The legal  
24 framework for this hearing is not complicated. It includes the  
25 elements for the issuance of a preliminary injunction, the

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1 elements of a claim under 42 U.S.C. 6972(a)(1)(B) and the  
2 definition of solid waste under the Resource Conservation  
3 Recovery Act, RCRA.

4 These are as follows: The elements for issuance of a  
5 preliminary injunction, a substantial likelihood of success on  
6 the merits, irreparable injury to the movement if the  
7 preliminary hearing is denied. And in the case of a sovereign  
8 acting on behalf of the public health, if the danger to public